

TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-8 AND DRAFT RULE #98-15(APCB)

DEVELOPMENT OF NEW RULES CONCERNING THE INCORPORATION OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR PRIMARY ALUMINUM REDUCTION PLANTS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for a new rule incorporating the national emission standard for hazardous air pollutants (NESHAP) for primary aluminum reduction plants and has scheduled a public hearing/meeting before the air pollution control board (board) for consideration of preliminary adoption of these rules.

CITATIONS AFFECTED: 326 IAC 20-24.

AUTHORITY: IC 13-14-8; IC 13-14-9-8; IC 13-17-3.

STATUTORY REQUIREMENTS

IC 13-14-9-8 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that there is no anticipated benefit from the first and second public comment periods, IDEM may forego these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for preliminary adoption. Two (2) opportunities for public comment (at the public hearings prior to preliminary and final adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by IC 13-14-9-8, the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for preliminary adoption and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-8.

The statute provides for this shortened rulemaking process if the commissioner determines that:

(1) the rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended

application of the federal law or rule;
(B) a technical amendment with no substantive effect on an existing Indiana rule; or
(C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and
(2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in IC 13-14-9-7(a)(2) from:
(A) exposing the rule to diverse public comment under IC 13-14-9-3 or IC 13-14-9-4;
(B) affording interested or affected parties the opportunity to be heard under IC 13-14-9-3 or IC 13-14-9-4; and
(C) affording interested or affected parties the opportunity to develop evidence in the record collected under IC 13-14-9-3 and IC 13-14-9-4.

BACKGROUND

Under Title III of the Clean Air Act Amendments of 1990, the U.S. EPA is required to regulate emissions of one hundred eighty-eight (188) listed hazardous air pollutants (HAPs) (Note: the original list contained one hundred eighty-nine (189) HAPs, but the U.S. EPA has subsequently removed caprolactum from the list). For categories of major sources listed pursuant to Section 112(c), the Clean Air Act requires the U.S. EPA to develop standards that will require the application of stringent air pollution controls, known as maximum achievable control technology (MACT). MACT reflects the maximum degree of reduction in emissions of HAPs that is achievable taking into consideration the cost of achieving the emission reduction, any health and environmental impacts, and energy requirements. The published list of source categories includes primary aluminum reduction plants.

On October 7, 1997, the U.S. EPA promulgated a final rule that established national emission standards for each new or existing potline, paste production plant, and anode bake furnace associated with a primary aluminum reduction plant, and for each new pitch storage tank associated with a primary aluminum production plant. In addition, the new source performance standard (NSPS) for primary aluminum plants was amended, and most of the requirements were incorporated in the final national emission standards. The U.S. EPA also added Method 315 for the measurement of extractable organic matter to 40 CFR 63, Appendix A, and Method 14A for the measurement of total fluoride (TF) to 40 CFR 60, Appendix A.

The major HAPs emitted by the sources affected by this rulemaking include hydrogen fluoride (HF) and polycyclic organic matter (POM). Polycyclic aromatic hydrocarbons (PAHs) are included in the chemical group POM. The final rule will result in a fifty percent (50%) reduction in fluoride and POM emissions from their current levels of seven thousand four hundred (7,400) tons per year and four thousand (4,000) tons per year, respectively. In addition, a substantial reduction in emissions of non-HAP pollutants, such as particulate matter, will also be achieved.

The national emission standard is based on a combination of control techniques that either prevent the escape of HF and POM emissions or capture the pollutants and return them to the process. Emissions of HF and POM are limited from primary aluminum potlines and anode bake furnaces and POM emissions are limited from paste production plants. There is one (1) primary aluminum reduction plant located in Indiana that would be affected by this rule.

FINDINGS

The commissioner of IDEM has prepared findings regarding rulemaking on incorporating the national emission standard for hazardous air pollutants (NESHAP) for primary aluminum reduction plants as required by federal rule. These findings are prepared under IC 13-14-9-8 and are as follows:

- (1) This rule is the direct adoption of federal requirements that are applicable to Indiana, and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana is required by federal law to adopt the national emission standard for hazardous air pollutants (NESHAP) for primary aluminum reduction plants as established by the United States Environmental Protection Agency.
- (3) The public will benefit from prompt adoption of this rule because it will result in a fifty percent (50%) reduction in fluoride and POM emissions and a substantial reduction in emissions of non-HAP pollutants, such as particulate matter.
- (4) I have determined that under the specific circumstances pertaining to this rule, there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from the first and second public comment periods.
- (5) The draft rule is hereby incorporated into these findings.

John M. Hamilton
Commissioner
Indiana Department of Environmental Management

ADDITIONAL INFORMATION

Additional information regarding this action may be obtained from Roger Letterman, Rules Development Section, Office of Air Management, (317) 232-8342 or (800) 451-6027, ext. 2-8342 (in Indiana). Technical questions may be directed to Tom Horton, Program Planning and Policy, Office of Air Management, (317) 233-8211 or (800) 451-6027, ext. 3-8211 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 20-24 IS ADDED TO READ AS FOLLOWS:

Rule 24. Primary Aluminum Reduction Plants

326 IAC 20-24-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) Except as provided in subsection (b), this rule apply to the owner or operator of each new pitch storage tank and new or existing potline, paste production plant, or anode bake furnace associated with primary aluminum production and located at a major source as defined in 40 CFR 63.2*.

(b) This rule does not apply to any existing anode bake furnace that is located on a different site separate from a primary aluminum reduction plant site. The owner or operator of such unit shall comply with the state maximum achievable control technology (MACT) determination established by the commissioner pursuant to 326 IAC 2.

(c) An owner or operator of an affected facility (potroom group or anode bake furnace) under 40 CFR 60.190 may elect to comply with either the requirements of 40 CFR 63.845 or 40 CFR 60, Subpart S*.

(d) The air pollution control board incorporates by reference 40 CFR 63, Subpart LL (62 FR 52383)* (October 7, 1997), National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.

***Copies of the Code of Federal Regulations (CFR) and Federal Register (FR) referenced in this article may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 20-24-1)**

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on March 4, 1998 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on the proposed new rule 326 IAC 20-24.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new rules. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Roger Letterman, Rules Development Section, Office of Air Management, (317) 232-8342 or (800) 451-6027, ext. 2-8342 (in Indiana) or technical questions may be directed to Tom Horton, Program Planning

and Policy, Office of Air Management, (317) 233-8211 or (800) 451-6027, ext. 3-8211 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

*Attn: Carolyn Moorman, ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015*

or call (317) 233-0544 (V) or (317) 232-6565 (TT). Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Management, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, Indiana Government Center-South, 302 West Washington Street, Room E011, Indianapolis, Indiana and are open for public inspection.